

# Aviation Group Client Update

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## **CITIBANK CLAIMS FREQUENT FLYER MILES ARE TAXABLE**

On February 14, 2012, a class action lawsuit was filed against Citibank in the United States District Court for the Southern District of New York. (*Hirsch v. Citibank*, No. 1:2012-CV-01124.) The plaintiffs, a class of Citibank customers, allege that Citibank enticed them to open a checking (or savings) account by offering 40,000 American Airlines AAdvantage frequent flyer miles. The plaintiffs further allege that Citibank failed to inform their customers that the frequent flyer miles would be reported to the IRS as taxable income, with a value of 2.5 cents attributed per mile.

Citibank sent each customer who opened a checking or savings account and accrued the 40,000 AAdvantage miles an IRS 1099 tax form for the “income” associated with the frequent flyer miles. However, Citibank did not send an IRS 1099 to customers that earned AAdvantage frequent flyer miles by opening a credit card account. Citibank characterized the 40,000 bonus miles given to customers for opening a checking or savings account as a prize (or award), which is subject to tax under the tax code. (26 U.S.C. § 74.) On the other hand, Citibank did not issue a 1099 for frequent flyer miles earned by use of a credit card. Citibank characterized the frequent flyer miles resulting from use of the credit card to be a rebate, which is considered by the IRS to be a reduction in the purchase price, and therefore not taxable income.

In 2002, the IRS announced that: “[it] will not assert that any taxpayer has understated his federal tax liability by reason of the receipt or personal use of frequent flyer miles or other in-kind promotional benefits attributable to the taxpayer’s business or official travel.” The IRS further addressed frequent flyer miles in a [2009 Letter Ruling](#) that was consistent with its earlier position regarding the taxability of frequent flyer miles or other promotional items that are received as the result of business travel and used for personal purposes.

We will continue to monitor the ongoing litigation and any IRS rulings regarding the taxability of frequent flyer miles or points.

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